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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,353	12/28/2001	Michael Tod Morman	KCC-16,291	8395
35844	7590	04/06/2004	EXAMINER	
PAULEY PETERSEN KINNE & ERICKSON			GRAY, LINDA L	
2800 WEST HIGGINS ROAD			ART UNIT	
SUITE 365			PAPER NUMBER	
HOFFMAN ESTATES, IL 60195			1734	

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/034,353	<b>Applicant(s)</b> MORMAN, MICHAEL TOD	
	<b>Examiner</b> Linda L Gray	<b>Art Unit</b> 1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15 and 17-20 is/are allowed.
- 6) ☒ Claim(s) 16 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____  |

**Detailed Action**

**Claim Rejections - 35 USC § 112**

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

**Claim 16** is indefinite in that such depends from claim 10 where claim 10 is a method claim and claim 16 is a product claim.

**Claim Rejections - 35 USC § 103**

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. **Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levy (WO 95/32327) in view of Morman (US 4,981,747).**

**Claim 21**, Levy teaches a high-stretch elastic laminate including an inherently extensible nonwoven web further having a plurality of perforations (p 3, L 5-21; p 3, L 35, to p 4, L 2; p 7, L 1-19) and a film (p 11, L 30-33).

*Levy does not teach that the film is elastic and devoid of perforations.*

Morman teaches in the same art that high-strength elastic laminates are provided when an inherently extensible nonwoven web is bonded with an elastic film devoid of perforations to provide improved resiliency and flexibility.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Levy that the film is elastic and devoid of

perforations in that Morman teaches in the same art that high-strength elastic laminates are provided in that an inherently extensible nonwoven web is bonded with an elastic film devoid of perforations to provide improved resiliency and flexibility.

**Allowable Subject Matter**

**5. Claims 1-15 and 17-20 are allowable and claim 16 would be allowable if amended to overcome the rejection under 35 USC 112, second paragraph, to depend correctly from either allowable claims 1 or 10.**

**6.** The following is a statement of reasons for the indication of allowable subject matter:

**claims 1, 10, 19, and 20**, the pending application demonstrates unexpected results on page 3, line 16 to page 4, lines 11 in that utilizing both the extensibility gained from necking and increased ability of the necked nonwoven web to extend due to the perforations there is a cumulative result of a high extensibility in one or more directions over that of a necked nonwoven web or a perforated nonwoven web alone wherein an example demonstrates an unexpected result of a two hundred percent extensibility, where the unexpected results are sufficient to overcome an obvious rejection of Levy in view of Morman.

**Response to Applicant's Comments**

**7.** Applicant's comments filed 1-16-04 have been fully considered and the rejection over Meece has been withdrawn.

**Conclusion**

**8.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Gray whose telephone number is (571) 272-1228. The examiner can normally be reached Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino, can be reached at (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

**Art Unit: 1734**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

llg

April 5, 2004

*Linda L. Gray*  
**LINDA GRAY**  
**PRIMARY EXAMINER**